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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

GREGORY WATTERSON, Derivatively On
Behalf of RIVERSTONE NETWORKS, INC.,

Plaintiff,

vs.

ROMULUS PEREIRA, PIYUSH PATEL,
CHRISTOPHER PAISLEY, ERIC JAEGER,
JORGE A. DEL CALVO, ROBERT
STANTON, SURESH GOPALAKRISHNAN,
and JOHN KERN,

Defendants,

- and -

RIVERSTONE NETWORKS, INC., a Delaware
corporation,

Nominal Defendant.

) Case No. C 03-0637 SBA

)
) VERIFIED FIRST AMENDED
) SHAREHOLDER DERIVATIVE
) COMPLAINT

) Date Action Filed: February 14, 2003

)
) DEMAND FOR JURY TRIAL

1 Plaintiff, by his attorneys, submits this Verified First Amended Shareholder Derivative
2 Complaint (the "Complaint") against the defendants named herein.

3 **NATURE OF THE ACTION**

4 1. This is a shareholder derivative action brought by a shareholder of Riverstone Networks,
5 Inc. ("Riverstone" or the "Company"), on behalf of the Company, against certain of its officers and
6 directors seeking to remedy defendants' violations of the Sarbanes-Oxley Act of 2002 ("Sarbanes-
7 Oxley"), and California and Delaware common and statutory law, including breaches of fiduciary duty,
8 that occurred from August 2001 to the present (the "Relevant Period") and that have caused substantial
9 damages to Riverstone.

10 **JURISDICTION AND VENUE**

11 2. This Court has jurisdiction over all causes of action asserted herein based upon 15
12 U.S.C. § 1331, in that a federal question exists, and Rule 23.1 of the Federal Rules of Civil Procedure.

13 3. This Court has jurisdiction over each defendant named herein because each defendant is
14 either a corporation that conducts business in and maintains operations in this District, or is an
15 individual who has sufficient minimum contacts in California and in this District so as to render the
16 exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial
17 justice.

18 4. Venue is proper in this Court because one or more of the defendants either resides in or
19 maintains executive offices in this District, a substantial portion of the transactions and wrongs
20 complained of herein, including the defendants' primary participation in the wrongful acts detailed
21 herein occurred in this District, and defendants have received substantial compensation in this District
22 by doing business here and engaging in numerous activities which had an effect in this District.

23 **SUMMARY OF THE ACTION**

24 5. During the Relevant Period, defendants caused the Company to violate Generally
25 Accepted Accounting Principles ("GAAP") and Securities and Exchange Commission ("SEC") rules by
26 wrongfully recognizing revenue that had not been earned and by failing to report the diminished value
27 of certain investments.

6. Beginning in March 2002, the Company was forced to admit the value of its investments were much lower than previously reported. Because of the defendants' GAAP violations, the Company was originally forced to write-down \$22.1 million in certain investments and record a \$1.7 million provision for bad debt on March 2, 2002. Eventually, however, the Company was forced to reveal by December 2002 a total impairment of \$57.1 million of its assets. This impairment was clearly material and should have been recorded and disclosed in the Company's financials by at least September 2001.

7. The defendants also forced the Company to wrongfully recognize revenue. In order to meet the Company's financial expectations that the defendants provided to analysts, the defendants manipulated the Company's revenues at the end of fiscal quarters with "sales" which were a complete sham. In fact, a large percentage of Riverstone's quarterly revenue was directly manipulated by the Chief Executive Officer and Chief Financial Officer by shipping product to certain customers and recognizing the revenue from those shipments, but then allowing the customer to return the product the next quarter.

8. This clear violation of GAAP has resulted in a recent financial restatement, which reversed net revenue by as much as \$98.8 million for Riverstone's 2002 and 2003 fiscal years. This restatement of net revenue amounted to an incredible 46% of the corrected net revenue for those two years. Unfortunately for Riverstone and its shareholders, the restatement may eventually be even larger as an internal and SEC investigation continues into these revenue recognition violations.

THE PARTIES

9. Plaintiff Gregory Watterson is, and was at times relevant hereto, an owner and holder of Riverstone common stock.

10. Nominal defendant Riverstone is a corporation organized and existing under the laws of the State of Delaware with its headquarters located at 5200 Great America Parkway, Santa Clara, California. Riverstone is a provider of metropolitan area networking solutions that enable service providers to convert raw bandwidth into profitable services over legacy and next-generation infrastructures.

11. Defendant Romulus Pereira was, at times relevant hereto, President, Chief Executive Officer ("CEO") and a director of Riverstone. On April 21, 2003, Pereira became Riverstone's

1 Chairman of the Board of Directors, replacing Piyush Patel. On that same date, Riverstone announced
2 that the Company had launched a search for a new CEO and made Pereira the acting CEO. Pereira
3 directly participated in the wrongdoing alleged in this Complaint and personally benefited from his
4 misconduct. For the year ended March 2, 2002, Riverstone paid Pereira \$229,327 in salary and granted
5 him 13,468 options to purchase Riverstone stock. For the year ended March 2, 2002, Pereira also
6 acquired 103,868 Riverstone shares on option exercises, immediately realizing \$1,420,395.¹
7 Additionally, during the Relevant Period, Pereira sold 103,868 shares of Riverstone stock for proceeds
8 of \$1,804,497. On August 20, 2003, Oscar Rodriguez succeeded Pereira as CEO and President, but
9 Pereira remains as the Chairman of the Board.

10 12. Defendant Piyush Patel is, and at all times relevant hereto was, a director of Riverstone
11 and a member of its Audit Committee. Patel was Chairman of the Board of Directors until April 21,
12 2003, when Pereira replaced him. Patel participated in the wrongdoing alleged in this Complaint, and
13 personally benefited from his misconduct by selling 253,633 shares of Riverstone stock for proceeds of
14 \$3,397,309.

15 13. Defendant Eric Jaeger was a director of Riverstone at all times relevant hereto, until July
16 2002. During the Relevant Period, Jaeger participated in the wrongdoing alleged in this Complaint, and
17 personally benefited from his misconduct by selling 161,615 shares of Riverstone stock for proceeds of
18 \$1,570,851.

19 14. Defendant Christopher Paisley is, and at all times relevant hereto was, a director of
20 Riverstone and a member of its Audit Committee.

21 15. Defendant Jorge A. del Calvo is, and at all times relevant hereto was, a director of
22 Riverstone. Del Calvo is also a partner at the law firm of Pillsbury Winthrop LLP ("Pillsbury"),
23 Riverstone's primary outside corporate and securities counsel.

24 16. Defendant Robert Stanton is, and at all times relevant hereto was, Chief Financial
25 Officer ("CFO") of Riverstone. Stanton directly participated in the wrongdoing alleged in this

26
27 ¹ Pereira's FY2003 compensation is unavailable because Riverstone has not filed a Schedule 14A for
28 fiscal 2003.

1 Complaint and personally benefited from his misconduct. For the year ended March 2, 2002,
2 Riverstone paid Stanton \$225,208 in salary and granted him 150,000 options to purchase Riverstone
3 stock. For the year ended March 2, 2002, Stanton acquired 36,000 Riverstone shares on option
4 exercises, immediately realizing \$533,273.² Additionally, during the Relevant Period, Stanton also sold
5 36,000 shares of Riverstone stock for proceeds of \$659,340. On October 21, 2003, Roger A. Barnes
6 replaced Stanton as CFO.

7 17. Defendant Suresh Gopalakrishnan is, and at all times relevant hereto was, Executive
8 Vice President of Engineering of Riverstone. During the Relevant Period, Gopalakrishnan participated
9 in the issuance of false and/or misleading financial statements, including the preparation of false and/or
10 misleading press releases and SEC filings, and personally benefited from his misconduct. For the year
11 ended March 2, 2002, Riverstone paid Gopalakrishnan \$180,000 in salary and granted him 6,413
12 options to purchase Riverstone stock. For the year ended March 2, 2002, Gopalakrishnan acquired
13 36,413 Riverstone shares on option exercises, immediately realizing \$461,721. During the Relevant
14 Period, Gopalakrishnan sold 36,413 shares of Riverstone stock for proceeds of \$623,199. Praveen K.
15 Mandal has replaced Gopalakrishnan as Executive Vice President of Engineering.

16 18. Defendant John Kern is, and at all times relevant hereto was, Executive Vice President of
17 Worldwide Sales and Service of Riverstone. During the Relevant Period, Kern participated in the
18 issuance of false and/or misleading financial statements, including the preparation of false and/or
19 misleading press releases and SEC filings, and personally benefited from his misconduct. For the year
20 ended March 2, 2002, Riverstone paid Kern \$338,123 in salary and other compensation and granted him
21 130,000 options to purchase Riverstone stock. For the year ended March 2, 2002, Kern acquired 45,800
22 Riverstone shares on option exercises, immediately realizing \$514,733. During the Relevant Period,
23 Kern sold 25,800 shares of Riverstone stock for proceeds of \$472,527. On March 19, 2003, Peter
24 McGann replaced Kern as Executive Vice President of Worldwide Sales and Service.

25
26
27 ² Stanton's FY2003 compensation is unavailable because Riverstone has not filed a Schedule 14A for
28 fiscal 2003.

1 19. Collectively, the defendants identified in paragraphs 11 through 18 are referred to herein
2 as the “Individual Defendants.”

3 **DUTIES OF THE INDIVIDUAL DEFENDANTS**

4 **AND DAMAGES RESULTING FROM THEIR BREACHES OF DUTIES**

5 20. By reason of their positions as officers, directors, and/or fiduciaries of Riverstone and
6 because of their ability to control the business and corporate affairs of Riverstone, the Individual
7 Defendants owed Riverstone and its shareholders fiduciary obligations of trust, loyalty, good faith and
8 due care, and were and are required to use their utmost ability to control and manage Riverstone in a
9 fair, just, honest, and equitable manner. The Individual Defendants were and are required to act in
10 furtherance of the best interests of Riverstone and its shareholders so as to benefit all shareholders
11 equally and not in furtherance of their personal interest or benefit.

12 21. Each director and officer of the Company owes to Riverstone and its shareholders the
13 fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Company
14 and in the use and preservation of its property and assets, and the highest obligations of fair dealing. In
15 addition, as officers and/or directors of a publicly held company, the Individual Defendants had a duty
16 to promptly disseminate accurate and truthful information with regard to the Company’s revenue,
17 margins, operations, performance, management, projections, and forecasts so that the market price of
18 the Company’s stock would be based on truthful and accurate information.

19 22. The Individual Defendants, because of their positions of control and authority as
20 directors and/or officers of Riverstone, were able to and did, directly and/or indirectly, exercise control
21 over the wrongful acts complained of herein, as well as the contents of the various public statements
22 issued by the Company. Because of their advisory, executive, managerial, and directorial positions with
23 Riverstone, each of the Individual Defendants had access to adverse non-public information about the
24 financial condition, operations, and improper representations of Riverstone.

25 23. At all times relevant hereto, each of the Individual Defendants was the agent of each of
26 the other Individual Defendants and of Riverstone and was at all times acting within the course and
27 scope of such agency.
28

1 24. To discharge their duties, the officers and directors of Riverstone were required to
2 exercise reasonable and prudent supervision over the management, policies, practices, and controls of
3 the financial affairs of the Company. By virtue of such duties, the officers and directors of Riverstone
4 were required to, among other things:

5 (a) refrain from acting upon material inside corporate information to benefit
6 themselves;

7 (b) ensure that the Company complied with its legal obligations and requirements,
8 including acting only within the scope of its legal authority and disseminating truthful and
9 accurate statements to the SEC and the investing public;

10 (c) conduct the affairs of the Company in an efficient, business-like manner so as to
11 make it possible to provide the highest quality performance of its business, to avoid wasting the
12 Company's assets, and to maximize the value of the Company's stock;

13 (d) properly and accurately guide investors and analysts as to the true financial
14 condition of the Company at any given time, including making accurate statements about the
15 Company's financial results and prospects, and ensuring that the Company maintained an
16 adequate system of financial controls such that the Company's financial reporting would be true
17 and accurate at all times;

18 (e) remain informed as to how Riverstone conducted its operations, and, upon
19 receipt of notice or information of imprudent or unsound conditions or practices, to make
20 reasonable inquiry in connection therewith, and to take steps to correct such conditions or
21 practices and make such disclosures as necessary to comply with federal and state securities
22 laws; and

23 (f) ensure that the Company was operated in a diligent, honest, and prudent manner
24 in compliance with all applicable federal, state, and local laws, rules, and regulations.

25 25. Each Individual Defendant, by virtue of his position as a director and/or officer, owed to
26 the Company and to its shareholders the fiduciary duties of loyalty, good faith, and the exercise of due
27 care and diligence in the management and administration of the affairs of the Company, as well as in
28 the use and preservation of its property and assets. The conduct of the Individual Defendants

1 complained of herein involves a knowing and culpable violation of their obligations as directors and
2 officers of Riverstone, the absence of good faith on their part, and a reckless disregard for their duties to
3 the Company and its shareholders that the Individual Defendants were aware or should have been aware
4 posed a risk of serious injury to the Company.

5 26. The Individual Defendants breached their duties of loyalty and good faith by allowing
6 defendants to cause or by themselves causing the Company to misrepresent its financial results and
7 prospects, as detailed herein *infra*, and by failing to prevent the Individual Defendants from taking such
8 illegal actions. In addition, as a result of defendants' illegal actions and course of conduct during the
9 Relevant Period, the Company is now the subject of a class action lawsuit that alleges violations of
10 federal securities laws. As a result, Riverstone has expended and will continue to expend significant
11 sums of money. Such expenditures include, but are not limited to:

12 (a) Costs incurred to carry out internal investigations, including legal fees paid to
13 outside counsel; and

14 (b) Costs incurred in investigating and defending Riverstone and certain officers in
15 the class actions, plus potentially millions of dollars in settlements or to satisfy an adverse
16 judgment.

17 27. The Individual Defendants' actions have irreparably damaged Riverstone. As a direct
18 and proximate result of the actions detailed in this Complaint, Riverstone has suffered and continues to
19 suffer damages. Riverstone has been forced to pay, *via* the Individual Defendants' misconduct,
20 increased salaries, bonuses, and other compensation for which it is entitled to restitution. Additionally,
21 many of the Individual Defendants millions of dollars in personal holdings of Riverstone stock of which
22 the Company is entitled to the proceeds thereof pursuant to Delaware and California common and
23 statutory law and Sarbanes-Oxley. Also, Riverstone has been damaged and continues to suffer damages
24 because the Individual Defendants' violations of GAAP and issuance of false and/or misleading
25 financial information has resulted in the filing of a securities fraud class action and an investigation by
26 the SEC. The class action and the SEC investigation has damaged the Company through the payment
27 of costs as a result thereof, and will continue to damage the Company via costs associated with the
28 further litigation of the class action case and the SEC investigation. Additionally, the class action and

1 the SEC investigation will cost the Company millions of dollars more to satisfy. Moreover,
2 Riverstone's corporate image and goodwill has been damaged. For at least the foreseeable future,
3 Riverstone will suffer from what is known as the "liar's discount," a term applied to the stocks of
4 companies who have been implicated in illegal behavior and have misled the investing public, such that
5 Riverstone's ability to raise equity capital or debt on favorable terms in the future is now impaired.

6 **BACKGROUND**

7 28. In September 1996, defendants Pereira and Patel were two of the three founders of Yago
8 Systems, Inc. ("Yago"). From its inception until March 1998, defendant Pereira served as Yago's Chief
9 Technology Officer ("CTO") and Vice President of Engineering and defendant Patel served as Yago's
10 CEO. In March 1998, Yago was acquired by Cabletron Systems, Inc. ("Cabletron", later renamed
11 Entaerasys) and became a wholly owned subsidiary of Cabletron.

12 29. On February 10, 2000, Cabletron announced its plan to create an independent publicly
13 traded company, Riverstone Networks, Inc., comprised of Cabletron's Internet infrastructure solutions
14 business for Internet service providers and other service providers. After the completion of
15 Riverstone's initial public offering on February 22, 2001, Cabletron owned 92,088,235 shares of
16 Riverstone common stock, representing approximately 86% of Riverstone's outstanding common stock.

17 30. On June 3, 2000, Cabletron, Riverstone, and certain related parties entered into a
18 Transformation Agreement, and Cabletron and Riverstone entered into a Contribution Agreement. In
19 accordance with the Transformation Agreement, Cabletron transferred to Riverstone the Cabletron-
20 owned assets and liabilities which related to the Riverstone business on August 28, 2000 (the
21 "Contribution Date"). Zeitnet, Inc. was also contributed to and then merged into Riverstone.

22 31. On July 24, 2001, Riverstone issued 7,117,757 shares of common stock to Cabletron in
23 exchange for approximately \$122 million in cash and certain strategic investments, with an historic cost
24 of approximately \$13 million. Many of Cabletron's top officers and directors became Riverstone's top
25 executives.

26 32. The Company's stated revenue recognition policy is as follows: the Company generally
27 recognizes revenue upon shipment of products provided there are no uncertainties regarding customer
28 acceptance, persuasive evidence of an arrangement exists, the sales price is fixed and determinable, and

1 collectibility is deemed probable. If uncertainties exist, revenue is recognized when such uncertainties
2 are resolved. Revenues from service and maintenance contracts are deferred and recognized ratably
3 over the period the services are performed, typically twelve months or less. When the Company
4 provides a combination of products and services to a customer, revenue is allocated based on the fair
5 values. Estimated costs to repair or replace products that may be returned under warranty are accrued at
6 the time of shipment. The Company's warranty period typically extends twelve months from the date
7 of shipment. Sales to customers in which the Company receives an equity instrument as consideration
8 are recorded at the estimated fair value of the instrument received as determined by an independent
9 appraisal or a recent cash equity transaction received by the customer from an unrelated third party.
10 Deferred revenue is recognized into income when the above criteria have been met.

11 THE INDIVIDUAL

12 DEFENDANTS' VIOLATIONS OF GAAP

13 33. In order to overstate its revenues and assets during the Relevant Period, the Individual
14 Defendants caused Riverstone to violate GAAP and SEC rules by wrongfully recognizing revenue and
15 failing to properly report the diminished value of certain of its investments.

16 IMPROPER REVENUE RECOGNITION

17 34. In order to meet the earnings estimates the Individual Defendants provided to analysts
18 and to personally profit from their sales of Company stock, the Individual Defendants inflated the price
19 of Riverstone stock by causing the Company to falsely report its results through improper revenue
20 recognition.

21 35. Defendants caused the Company to report improper and inflated revenues during the
22 Relevant Period in its financial statements filed in SEC Forms 10-Q for quarter periods in 2002 and
23 2003 and SEC Form 10-K for the fiscal year ended March 2, 2002, and its announced revenues for the
24 fiscal year ended March 1, 2003, including press releases as detailed herein. A substantial percentage
25 of Riverstone's quarterly revenue was based on purchase orders received (usually by fax) and recorded
26 as revenue on the last day of each quarter. In addition, these sales did not represent deals made by the
27 sales department or account managers but were instead originated by defendants Stanton and Pereira.
28 Many of these "end-of-the-quarter" deals would be returned during the following quarter. Customers

1 claimed on the Return Material Authorization (“RMA”) form that the products were defective. The
2 amount of returned product was so voluminous that Riverstone ran out of storage space and employees
3 had to store returned product in their cubicles and work areas. For example, one of the Company’s key
4 customers was Qwest in Denver, Colorado. During the Relevant Period, sales representatives would
5 often call end-users (customers of Qwest) inquiring about the reasons for returns and typically the end-
6 user did not have any record or knowledge of having ordered or receiving Riverstone’s product.

7 36. In another example, Riverstone recorded approximately \$9 million in revenue from Cox
8 Communications in early 2002. In May 2002, at least \$3 million was returned to Riverstone. Despite
9 the fact that defendants knew that product would be returned the following quarter, the entire \$9 million
10 was booked in the previous quarter.

11 37. During the Relevant Period the rate of returns experienced by Riverstone was excessive.
12 The volume of returned products was so large that Riverstone had to rent offsite storage units to house
13 returned product. The company also had to push-out walls while reconfiguring Riverstone’s office
14 space so returned equipment could be stored in the office area. Riverstone would also put returned
15 products in cubicles belonging to employees that didn’t come to the office on a regular basis. When an
16 order was returned, a credit document was issued and a copy was sent (via the Oracle database) to
17 defendant Kern’s sales department.

18 38. Before sending products back, customers had to call Riverstone’s customer support
19 department to receive a RMA number. Then, when Riverstone received the returned products, an entry
20 would be made in the Oracle database by the receiving department. Once Riverstone got the products,
21 employees would verify whether or not they were still functional. The customers who returned the
22 products had not even opened most of the boxes before retuning them. Where inventory had never been
23 opened, Riverstone would re-stock and re-sell it. If the tape on the returned box was cut or damaged,
24 Riverstone would have the equipment tested and sent to the refurbishing department if needed. In many
25 instances no explanations for the product returns were provided.

26 39. Riverstone monitored inventory through count reports using the Oracle system.
27 Inventory on this report was categorized by location headings such as “refurbished warehouse,”
28

1 “returned unopened warehouse,” etc. Inventory counts were monitored by performing physical counts,
2 and by running inventory checks on the Oracle database.

3 40. Daily meetings were held to discuss what to do with all of Riverstone’s returned
4 products. Riverstone’s quality manager ran these meetings, which were attended by field engineers and
5 managers. During these meetings, the group discussed what products were being returned, and what, if
6 any, technical issues were the results of the returns. A technical support department was created and
7 headed up by Kern. Minutes were kept which detailed these meetings.

8 41. Many of Riverstone’s last minute shipments were to larger customers, such as Cox
9 Communications, Qwest, Global Crossing, and Verizon. Often during this period Riverstone would
10 ship product based upon the pretext that a customer was having a system failure of some sort.
11 Customers usually received the new systems in a 24-hour time frame. It was not uncommon for
12 Riverstone to replace the same shipment on two or more consecutive days, regardless of whether or not
13 the customer had time to install it. The types of systems shipped to these larger customers, such as Cox
14 Communications, were extremely expensive. This duplicate shipping practice also happened with
15 Riverstone’s Asia-based customers. Riverstone shipped large quantities of equipment to Asia, and was
16 often shipped back. In some cases, the equipment was never returned.

17 42. Pereira was well aware of the repeated shipments of duplicate systems to Riverstone’s
18 customers. These shipments were discussed with Pereira during monthly meetings where the
19 department managers also presented their reports to him. The reports presented to Pereira included the
20 sales reports, RMA reports, and quality reports (RMA and quality reports are described below). Pereira
21 was especially concerned about the major accounts, and often asked for reports specifically related to
22 one customer, such as Cox Communications.

23 43. Riverstone was improperly recognizing these repeated shipments as revenue, in violation
24 of GAAP. When a duplicate system was shipped to Cox Communications, the price of the equipment
25 was recorded (on the Remedy database) against the Cox Communications’ account. Cox
26 Communications wouldn’t actually know it had this fee charged to it account, and there was never a
27 purchase order issued for these shipments. These shipments were recorded as revenue and included in
28 the weekly and monthly sales reports on the Remedy database, and on an Excel spreadsheet. Numbers

1 were divided into two columns: sales orders for the month and sales orders for the week. The duplicate
2 shipments were recorded in these sales reports. This sales report was distributed to the “front line”
3 managers, including defendant Stanton. Defendant Stanton discussed the reports at weekly meetings
4 with department managers, during April through July 2002.

5 44. Riverstone’s RMAs were much higher in volume than their competitors. RMAs were
6 discussed often and were a big concern to Pereira. Pereira spearheaded meetings on a weekly basis to
7 specifically discuss RMAs. Managers would often discuss what to do about the frequent returns, and
8 where to store the returned equipment. Defendant Gopalakrishnan assisted Pereira, and he also attended
9 these RMA meetings with Pereira. Kern was usually in attendance as well.

10 45. Pereira was very concerned about the public and Riverstone’s customers finding out
11 about their high return rate. During the RMA meetings, he would stress that the information discussed
12 needed to stay within the confines of the room.

13 46. Another report that was generated from the RMA department’s Oracle database
14 contained information about what equipment was shipped out and returned, which products had been
15 tested and classified as “failures,” and which products had been tested and classified as “non-failures.”
16 This report contained information about what equipment had been returned and tested. According to
17 the RMA reports, there was almost never anything wrong with the equipment that had been returned
18 and tested. In other words, most of the returns were classified as “non-failures.” Once a piece of
19 equipment was tested and classified as a non-failure, the Company would re-stock and then re-ship it to
20 the next customer. If merchandise came back three times, then Pereira would order that it be dumped.
21 Generally returned goods were not due to failures.

22 47. All of the reports (RMA, sales, and quality) discussed above were distributed to
23 management and the executive staff. The reports were also posted on Riverstone’s internal website,
24 which gave anybody working at Riverstone the opportunity to access the reports.

25 48. Riverstone had to lease a warehouse facility at Flextronics to store returned equipment.
26 Riverstone bought equipment which was manufactured by Flextronics. Riverstone would then build out
27 systems using Flextronic’s equipment, and ship it to their end customers. When the systems were
28 returned to Riverstone, it would often be tested and then shipped back to their storage facility at

1 Flextronics. Pereira wanted Riverstone's returns managed by a third party (Flextronics), so the
2 Company had many of its returns shipped offsite.

3 49. Remedy and Oracle databases were updated into one Oracle database between
4 approximately April and July 2002. During this process accounting irregularities were brought up in
5 meetings with Stanton. Financial department employees would question Stanton about accounting
6 variances that showed up on a monthly basis. Stanton's sales figures were always higher than the sales
7 reports the financial department received. The financial department would ask him where his numbers
8 came from, and he would attribute the difference to the system integration process. Stanton's typical
9 excuse was to blame it on the computer systems, and according to him, the sales figures he had were the
10 correct numbers. These numbers were always higher than the numbers the financial staff had on their
11 sales reports. Numbers also tended to disappear or fall-off reports. Sales reports, RMA reports, and
12 quality reports were affected by this conduct.

13 50. Riverstone violated GAAP, SEC rules, and their own stated revenue recognition policy
14 by recording bogus revenue. The SEC's Staff Accounting Bulletin No. 101 "Revenue Recognition in
15 Financial Statements" requires that:

- 16 (a) persuasive evidence of an arrangement exists;
- 17 (b) delivery has occurred;
- 18 (c) the seller's price to the buyer is fixed or determinable; and
- 19 (d) collectibility is reasonably assured.

20 51. Here, there was no persuasive evidence that an arrangement existed and collectibility
21 was not reasonably assured because defendants knew that the customers would be returning substantial
22 amounts of the product in the next quarter.

23 52. Financial Accounting Standards Board ("FASB") Statement of Concepts ("FASCON")
24 No. 5 states: "If collectibility of assets received for product ... is doubtful, revenues and gains may be
25 recognized on the basis of cash received." FASCON 5, ¶ 84.g. Riverstone also stated in its publicly
26 filed financial statements that revenues were recorded in accordance with GAAP.

27 53. To the extent that any of these "end-of-the-quarter" deals were legitimate, GAAP
28 requires that the Company deduct from revenue all expected returns: "any costs or losses that may be

1 expected in connection with any returns shall be accrued . . . and sales revenue and cost of sales
2 reported in the income statement shall be reduced to reflect estimates returns.” Financial Accounting
3 Standards (“FAS”) No. 48, ¶ 7. Instead of reducing sales by these known returns, Riverstone recorded
4 the full sales amount in violation of FAS No. 48.

5 54. Instead of deferring revenue on deals that would never be paid, defendants caused the
6 Company to record the entire sale and account receivable on its books. As a result of recording bogus,
7 uncollectible revenue, the Individual Defendants caused Riverstone to reveal on June 20, 2002 that the
8 Company’s receivables had deteriorated. In fact, the Individual Defendants caused the Company’s days
9 sales outstanding to almost double from 77 days to 151 days. Thus, on average, customers were taking
10 nearly half a year to pay – if at all.

11 **FAILURE TO WRITE DOWN INVESTMENTS**

12 55. As of March 2, 2002, Riverstone had recorded impairment write-downs of these
13 investments totaling \$22.1 million and recorded a provision for bad debt of \$1.7 million. At that time,
14 Riverstone also included \$25.2 million of these investments in long-term investments and \$14.9 million
15 in other long-term assets. Eventually, Riverstone recorded a non-cash charge on September 18, 2002 of
16 \$10.7 million and an impairment charge on December 18, 2002 of \$24.3 million related to investments
17 in privately-held companies. Thus, the Individual Defendants have caused Riverstone to now admit that
18 the value of its investments is only a fraction of its carrying amount. The amount of impairment of
19 \$57.1 million was material and should have been recorded and disclosed in the Company’s financial
20 statements by at least September 2001.

21 56. These financial statements and the statements about them were false and misleading, as
22 such financial information was not prepared in conformity with GAAP, nor was the financial
23 information a fair presentation of the Company’s operations due to the Company’s improper accounting
24 for its investment in technology companies, in violation of GAAP and SEC rules.

25 57. GAAP are those principles recognized by the accounting profession as the conventions,
26 rules, and procedures necessary to define accepted accounting practice at a particular time. SEC
27 Regulation S-X (17 C.F.R. § 210.4-01(a)(1)) states that financial statements filed with the SEC which
28 are not prepared in compliance with GAAP are presumed to be misleading and inaccurate, despite

1 footnote or other disclosure. Regulation S-X requires that interim financial statements must also
2 comply with GAAP, with the exception that interim financial statements need not include disclosure
3 which would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. §
4 210.10-01(a).

5 58. GAAP, as set forth in Accounting Principles Board (“APB”) Opinion No. 18, requires
6 that companies must recognize a decrease in value of an investment carried under the cost method of
7 accounting by a charge against earnings when a decline in value of the investment is other than
8 temporary. A series of operating losses or other factors may indicate that a decrease in value of the
9 investment has occurred which is other than temporary and should be recognized.

10 59. By the time it reported its financial results at the beginning of the Relevant Period,
11 several of Riverstone’s investments in telecommunications related companies had deteriorated
12 dramatically as compared to their value. Thus, the defendants were increasingly aware that the
13 impairment in value was not temporary.

14 60. Pursuant to GAAP, as set forth in APB No. 18 and Statement of Financial Accounting
15 Standards No. 121, the Company was required to recognize a loss to reflect the non-temporary
16 impairment. Contrary to GAAP, the Individual Defendants caused Riverstone to not reflect such losses,
17 as to do so would have so reduced the Company’s earnings during the Relevant Period and would have
18 been an admission that the Company’s current business and future prospects were bleak, at best, and
19 that the integration was a failure.

20 61. Due to these accounting improprieties, the Individual Defendants also caused the
21 Company to present its financial results and statements in a manner which violated additional GAAP
22 standards, such as:

23 (a) The principle that interim financial reporting should be based upon the same
24 accounting principles and practices used to prepare annual financial statements was violated
25 (APB No. 28, ¶ 10);

26 (b) The principle that financial reporting should provide information that is useful to
27 present and potential investors and creditors and other users in making rational investment,
28 credit and similar decisions was violated (FASCON 1, ¶ 34);

1 (c) The principle that financial reporting should provide information about the
2 economic resources of an enterprise, the claims to those resources, and effects of transactions,
3 events and circumstances that change resources and claims to those resources was violated
4 (FASCON 1, ¶ 40);

5 (d) The principle that financial reporting should provide information about how
6 management of an enterprise has discharged its stewardship responsibility to owners
7 (stockholders) for the use of enterprise resources entrusted to it was violated. To the extent that
8 management offers securities of the enterprise to the public, it voluntarily accepts wider
9 responsibilities for accountability to prospective investors and to the public in general
10 (FASCON 1, ¶ 50);

11 (e) The principle that financial reporting should provide information about an
12 enterprise's financial performance during a period was violated. Investors and creditors often
13 use information about the past to help in assessing the prospects of an enterprise. Thus,
14 although investment and credit decisions reflect investors' expectations about future enterprise
15 performance, those expectations are commonly based at least partly on evaluations of past
16 enterprise performance (FASCON 1, ¶ 42);

17 (f) The principle that financial reporting should be reliable in that it represents what
18 it purports to represent was violated. That information should be reliable as well as relevant is a
19 notion that is central to accounting (FASCON 2, ¶¶ 58-59);

20 (g) The principle of completeness, which means that nothing is left out of the
21 information that may be necessary to insure that it validly represents underlying events and
22 conditions was violated (FASCON 2, ¶ 79); and

23 (h) The principle that conservatism be used as a prudent reaction to uncertainty to try
24 to ensure that uncertainties and risks inherent in business situations are adequately considered
25 was violated. The best way to avoid injury to investors is to try to ensure that what is reported
26 represents what it purports to represent (FASCON 2, ¶¶ 95, 97).

27 62. Further, the undisclosed adverse information concealed by defendants during the
28 Relevant Period is the type of information which, because of SEC regulations, regulations of the

1 national stock exchanges and customary business practice, is expected by investors and securities
2 analysts to be disclosed and is known by corporate officials and their legal and financial advisors to be
3 the type of information which is expected to be and must be disclosed.

4 63. As a result of the Individual Defendants' actions, Riverstone's market capitalization has
5 been damaged by over \$2.6 billion. At the same time that the defendants were causing Riverstone to
6 suffer such devastation of its market capitalization, many of the Individual Defendants fared much
7 better by selling over \$8.5 million of their personally held stock.

8 64. On April 25, 2003, Riverstone announced that the Individual Defendants' conduct had
9 caused the SEC to request information on Riverstone's accounting practices related to "certain financial
10 transactions." Shortly thereafter, the SEC launched a formal investigation and issued a formal order of
11 investigation to the Company.

12 65. On May 28, 2003, the Individual Defendants caused Riverstone to announce that the
13 Company was delaying the filing of its Annual Report on Form 10-K for the fiscal year ended March 1,
14 2003, and its Quarterly Report for the first quarter of fiscal year 2004 on Form 10-Q with the SEC due
15 to an internal review of Riverstone's prior accounting practices. The Company has yet to file these
16 reports.

17 66. On August 26, 2003, the Individual Defendants published the accounting restatement of
18 the Company's net revenues for fiscal years 2002 and 2003. This restatement is an admission that
19 Riverstone's financial statements for those fiscal years were materially false and misleading.
20 Riverstone publicly announced that:

21 [T]he company has determined that it overstated its previously reported net revenues
22 for the fiscal year ended March 2, 2002 of \$210.8 million by as much as \$85.5
23 million and its previously reported net revenues for the nine months ended
November 30, 2002 of \$54.5 million by as much as \$12.7 million.

24 In addition, the company has determined that previously announced net revenues for
25 the fiscal year ended March 1, 2003 of \$69.6 million were overstated by as much as
26 \$13.3 million. The company anticipates a positive impact of as much as \$700,000 on
previously announced net revenues for the first quarter of fiscal 2004 ended May 31,
2003 of \$12.7 million.

27 The overstatements are primarily related to revenue recognized on sales to customers
28 in which the company made investments and sales that were subject to rights of
return, pricing discounts and other contingencies that were not accounted for at the

1 time the transactions were originally recorded. As a result, based on the company's
2 accounting policies, revenue related to these sales either should not have been
recognized or should have been recognized in a different period.

3 The review of the company's accounting practices by a special committee of the
4 board of directors is ongoing. Based on that review, additional items may be restated.
5 The company is currently unable to quantify the amounts of potential additional
6 restatements or the impact of any restatement, which will be material. As previously
7 announced the Nasdaq Listing Qualifications Panel has determined to continue the
8 listing of Riverstone's securities on The Nasdaq National Market subject to
9 conditions prescribed by the Panel, including the condition that Riverstone file its
10 Form 10-K for the year end March 1, 2003 and its Form 10-Q for the quarter ended
May 31, 2003, as well as any restatements for prior periods, by September 8, 2003.
The company is attempting to conclude its review and issue any restatements
promptly, but it presently cannot state with any certainty when this will occur.
Investors should not rely on the company's historical financial statements and
auditors' reports thereon or its financial results announced for any period.

11 67. The announced financial restatement is an admission that the Company's previously
12 reported financials were materially false and misleading. Thus, the Company's financials reported in its
13 Quarterly and Annual Reports filed on Forms 10-Q and 10-K and filed with the SEC during its 2002
14 and 2003 fiscal years were materially false and misleading.

15 68. The following reports filed with the SEC contained admittedly false and misleading
16 financial statements:

17 (a) Quarterly Report, for the quarter ending June 2, 2001, filed with the SEC on July
18 17, 2001 and approved and signed by Defendants Pereira and Stanton.

19 (b) Quarterly Report, for the quarter ending September 1, 2001, filed with the SEC
20 on October 15, 2001 and approved and signed by Defendants Pereira and Stanton.

21 (c) Quarterly Report, for the quarter ending December 1, 2001, filed with the SEC on
22 January, 15, 2002 and approved and signed by Defendants Pereira and Stanton.

23 (d) Annual Report, for the year ending March 2, 2002, filed with the SEC on May
24 31, 2002 and approved and signed by Defendants Pereira, Stanton, Patel, del Calvo, Jaeger, and
25 Paisley.

26 (e) Quarterly Report, for the quarter ending June 1, 2002, filed with the SEC on June
27 25, 2002 and approved and signed by Defendants Pereira and Stanton.

(f) Quarterly Report, for the quarter ending August 31, 2002, filed with the SEC on October 3, 2002 and approved and signed by Defendants Pereira and Stanton. Furthermore, Pereira and Stanton falsely certified this Quarterly Report and the financials within it as true pursuant to Sarbanes-Oxley.

Quarterly Report, for the quarter ending November 30, 2002, filed with the SEC on January 14, 2003 and approved and signed by Defendants Pereira and Stanton. Furthermore, Pereira and Stanton falsely certified this Quarterly Report and the financials within it as true pursuant to Sarbanes-Oxley.

69. On September 19, 2003, the Company received a letter in which the trustee for the Company's 3.75% convertible subordinated notes due 2006 asserts that an event of default has occurred under the related Indenture as a result of Riverstone's continued failure to file its Form 10-K as required by the Indenture within 60 days of receiving notice from the trustee. The trustee also purports to declare all amounts owing on the notes and under the Indenture to be immediately due and payable, and demands principal in the amount of \$131,750,000 and interest and liquidated damages accrued to September 12, 2003 in the amount of \$1,570,935.82.

FALSE AND MISLEADING STATEMENTS DURING THE RELEVANT PERIOD

70. Due to the Individual Defendants violations of GAAP, and in order to conceal those GAAP violations, the Individual Defendants published false and misleading financial information to the public and filed false and misleading statements with the SEC as identified below.

71. On August 20, 2001, the Individual Defendants caused Riverstone to issue the following press release via *Business Wire*:

Hutchison Global Crossing Selects Riverstone Routers for World's First Metro MPLS Ethernet Network.

Nationwide Network to Deliver Advanced Content and IP Services

Riverstone Networks, Inc., a pioneer in metropolitan area networking, today announced that Hong Kong-based Hutchison Global Crossing (HGC) selected Riverstone's advanced routing technology to create the world's first major metropolitan Multi-Protocol Label Switching (MPLS) Ethernet network. By deploying Riverstone routers to create its metro network, HGC will manage and control bandwidth with unprecedented accuracy to deliver an extensive suite of advanced IP-based services to its customers. ***The deployment will initially provide nearly one million Hong Kong residents with last-mile Ethernet connectivity.*** [Bold emphasis added.]

1 “The new Hutchison Global Crossing networks relies on MPLS as the
2 cornerstone for provisioning its services, while leveraging the speed and simplicity of
3 Ethernet, to create an optimal foundation for the profitable delivery of IP services,” said
4 Romulus Pereira, president and CEO of Riverstone Networks. “This state-of-the-art
5 network will facilitate the creation and delivery of several exciting new services,
6 positioning HGC to increase its revenue streams and grow its business into the future.”

7 Riverstone will supply HGC with several hundred metro aggregation routers
8 from the metro core to the access edge, including numerous RS 38000 optical metro
9 backbone routers, which feature powerful service-creation tools and dynamic bandwidth
10 provisioning capabilities. In addition to using RS 38000 routers in the metro core, HGC
11 will incorporate RS 8600 multi-service metro routers for Point-of-Presence (POP)
12 aggregation purposes, and RS 3000 metro access routers in building access applications.
13 HGC will also leverage Riverstone technology to become the first carrier to launch an
14 end-to-end MPLS metro network for content and service delivery.

15 “This is a very significant metro-optical Ethernet deployment,” said David
16 Gross, senior analyst at Communications Industry Researchers, Inc. “MPLS greatly
17 improved traffic engineering in the long-haul IP core, and now Riverstone is leading the
18 charge to bring MPLS to the metro Ethernet core. As service providers are forced to
19 accelerate time to profitability, Riverstone has build a platform that can help them reach
20 their financial objectives.”

21 “Riverstone’s vision and strategy have been consistent, and its early commitment
22 to MPLS in its metrowide solutions was well timed to position the company for recent
23 successes in Asian markets,” said David Dunphy, senior analyst, Current Analysis.
24 “Rapid buildout of metro networks in places like Hong Kong, where population density
25 is high and fiber access is widely available, makes for significant opportunities in the
26 current market. Service providers in the region have a large addressable market for
27 new, differentiated, high-bandwidth services, and MPLS technology such as
28 Riverstone’s can give these companies an important tool – the means to deliver cost-
effective Ethernet-based services with consistent service quality.”

72. On September 10, 2001, the Individual Defendants caused Riverstone to issue a press
release via *Business Wire* which stated in relevant part:

Riverstone Networks, Inc., a pioneer in metropolitan area networking, furthered its lead
in Multi-Protocol Label Switching (MPLS) technology for metropolitan area networks
by shipping its 1,000th MPLS router port this week.

Riverstone is currently shipping MPLS-enabled routers to six different
telecommunications carrier customers. This milestone follows Riverstone’s August
2001 announcement that its advanced routers would be used by Hong Kong-based
Hutchison Global Crossing to create the world’s first metro MPLS network, **providing
nearly one million residents with last-mile Ethernet connectivity.** [Bold emphasis
added.]

73. On September 20, 2001, the Individual Defendants caused Riverstone to issue a press
release entitled, “Riverstone Networks Reports Record Revenue, Delivers 169 Percent Year Over Year
Growth, and Reaches Profitability Ahead of Expectations.” The press release stated in part:

1 Riverstone Networks Inc. today reported revenues of \$55.3 million for its second
2 quarter fiscal 2002, which ended September 1, 2001, a 169 percent increase compared
3 with revenues of \$20.6 million for the same period last year and a 25 percent increase
4 compared with revenues of \$44.2 million for the prior quarter.

5 Pro forma net income for the quarter was \$1.6 million or \$0.01 per share,
6 compared with a pro forma net loss of \$8.4 million or \$0.09 per share for the second
7 quarter of fiscal 2001, and a pro forma net loss of \$3.6 million or \$0.03 per share for the
8 prior quarter.

9 Actual net income for the second quarter, which includes stock-based
10 compensation and amortization of goodwill, was \$64,000 or breakeven on a per share
11 basis. This compares with a net loss of \$11.8 million or \$0.13 per share for the second
12 quarter of fiscal 2001.

13 “We are very pleased with our financial results,” said Romulus Pereira, president
14 and chief executive officer of Riverstone Networks. “Not only did we turn profitable a
15 full quarter ahead of expectations, we grew revenue 169 percent on a year over year
16 basis. We continue to win tier-one accounts around the world by delivering key
17 technology offerings such as MPLS services, new high-density gigabit platforms and
18 high-availability networking solutions. These achievements are establishing us as a
19 premier provider of metropolitan area network equipment.”

20 74. The true facts which were known (or consciously disregarded) by each of the defendants
21 but concealed from the public were as follows:

22 (a) That the Company’s financial results were materially false and misleading as
23 described below;

24 (b) That the Company’s purported ability to reach one million customers via its deal
25 with Hutchison was a pipe dream as Hutchison had less than 150,000 customers and its growth
26 rate was less than 7% per month;

27 (c) That the Company’s revenue recognition policy was regularly disregarded in
28 favor of the defendants’ desire to ship products and report revenues even though the customer
had little if any ability to pay;

(d) That a substantial percentage of Riverstone’s sales occurred in the last few days
of the fiscal quarter, which allowed Riverstone to miraculously “make its numbers” through
suspect transactions that should not have been recorded as revenue at that time;

(e) That much of Riverstone’s revenue reported during the quarter would have to be
reversed because customers routinely returned products during the next fiscal quarter. For
example, throughout the Relevant Period, Qwest Communications (“Qwest”), one of

1 Riverstone's largest customers, repeatedly returned product during the following quarter.
 2 Curiously, when Riverstone employees followed up with Qwest's end-customers to inquire into
 3 the reason for the return, the Qwest end-customers often did not even have a record of ever
 4 having received the product;

5 (f) That the claimed reason for the product return by "end-of-the-quarter" customers
 6 was often that the products were "defective." However, the returned products were later placed
 7 back into inventory. Many of the customers who returned products would often re-order the
 8 exact same products and return them again later. Although Riverstone's product return policy
 9 provided for a 90-day return period, Riverstone accepted product returns for products that had
 10 been purchased over 120 days earlier; and

11 (g) That many of the end-of-the-quarter transactions that allowed Riverstone to
 12 purportedly "make its numbers" were suspect deals that were put together by defendants
 13 Stanton or Pereira rather than sales made by Riverstone's sales representatives. The revenue
 14 from these end-of-the-quarter transactions should not have been recorded. Defendants knew
 15 that the end-of-the-quarter transactions were suspect because defendant Kern received bi-
 16 weekly pipeline reports from Riverstone's outside sales representatives. These bi-weekly
 17 pipeline reports contained the names of prospective customers that had a high potential of
 18 closing a deal with Riverstone. However, the suspect "end-of-the-quarter" deals put together by
 19 defendants Stanton and Pereira did not appear on these pipeline reports.

20 75. Between September 6, 2001 and October 25, 2001, certain of the Insider Selling
 21 Defendants, based on their knowledge of this material, adverse, non-public information regarding the
 22 Company's statements, financial results, and condition, sold in California 290,529 shares of Riverstone
 23 common stock, collecting proceeds of \$2,542,382.40, as follows:

<u>Name</u>	<u>Dates</u>	<u># Shares</u>	<u>Prices</u>	<u>Proceeds</u>
Piyush Patel	9/6/2001	974	\$9.26	\$9,019.24
	9/6/2001	1,479	\$9.27	\$13,710.33
	9/25/2001	974	\$7.50	\$7,305.00
	9/25/2001	4,000	\$7.70	\$30,800.00

1		9/25/2001	4,000	\$7.72	\$30,880.00
2		9/25/2001	8,000	\$7.75	\$62,000.00
3		9/26/2001	3,848	\$7.75	\$29,822.00
4		9/26/2001	5,000	\$7.74	\$38,700.00
5		9/26/2001	5,000	\$7.75	\$38,750.00
6		10/2/2001	7,300	\$5.75	\$41,975.00
7		10/5/2001	4,500	\$6.42	\$28,890.00
8		10/8/2001	980	\$7.12	\$6,977.60
9		10/8/2001	1,481	\$7.12	\$10,544.72
10		10/9/2001	4,531	\$8.02	\$36,338.62
11		10/11/2001	10,000	\$10.33	\$103,300.00
12		10/11/2001	10,000	\$9.96	\$99,600.00
13		10/11/2001	20,000	\$10.33	\$206,600.00
14		10/12/2001	7,428	\$10.31	\$76,582.68
15		10/12/2001	10,000	\$10.35	\$103,500.00
16		10/15/2001	1,857	\$11.06	\$20,538.42
17		10/15/2001	5,000	\$10.91	\$54,550.00
18		10/15/2001	5,000	\$10.95	\$54,750.00
19		10/15/2001	7,681	\$10.92	\$83,876.52
20		10/15/2001	10,000	\$10.94	\$109,400.00
21		Total:	<u>139,033</u>		<u>\$1,298,410.10</u>
22	Suresh Gopalakrishnan	10/15/2001	6,413	\$11.50	\$73,749.50
23		Total:	<u>6,413</u>		<u>\$73,749.50</u>
24	Romulus Pereira	10/12/2001	3,848	\$11.05	\$42,520.40
25		10/12/2001	<u>9,620</u>	<u>\$11.05</u>	<u>\$106,301.00</u>
25		Total:	<u>13,468</u>		<u>\$148,821.40</u>
26	Eric Jaeger	9/6/2001	288	\$9.26	\$2,666.88
27		9/25/2001	216	\$7.50	\$1,620.00
27		9/25/2001	289	\$7.50	\$2,167.50
28		9/25/2001	252	\$7.61	\$1,917.72
28		9/25/2001	2,974	\$7.61	\$22,632.14

1	9/25/2001	8,500	\$7.62	\$64,770.00
	9/25/2001	1,600	\$7.61	\$12,176.00
2	9/25/2001	3,174	\$7.61	\$24,154.14
	9/26/2001	8,500	\$7.16	\$60,860.00
3	9/26/2001	8,500	\$7.03	\$59,755.00
	10/1/2001	4,000	\$5.09	\$20,360.00
4	10/8/2001	10,000	\$8.31	\$83,100.00
	10/8/2001	10,000	\$8.00	\$80,000.00
5	10/8/2001	20,000	\$7.92	\$158,400.00
	10/8/2001	10,000	\$8.05	\$80,500.00
6	10/8/2001	10,000	\$8.25	\$82,500.00
	10/8/2001	10,000	\$7.94	\$79,400.00
7	10/8/2001	288	\$7.12	\$2,050.56
	10/11/2001	2,125	\$10.31	\$21,908.75
8				
9	10/11/2001	8,233	\$10.31	\$84,882.23
	10/24/2001	5,205	\$11.50	\$59,857.50
10				
11	10/24/2001	1,058	\$11.50	\$12,167.00
	10/25/2001	6,413	\$12.00	\$76,956.00
12				
13	Total:	<u>131,615</u>		<u>\$1,021,401.40</u>
14				
15	TOTAL:	<u><u>290,529</u></u>		<u><u>\$2,542,382.40</u></u>

76. On November 15, 2001, the Individual Defendants caused Riverstone to issue a press release entitled, "Riverstone Sells \$150 Million of 3.75% Convertible Subordinated Notes." The press release stated in part:

Riverstone Networks, Inc. announced today that it agreed to privately place \$150 million aggregate principal amount of 3.75% convertible subordinated notes due 2006. The notes will be unsecured obligations, convertible into Riverstone Common Stock at a conversion price of approximately \$18.16 per share. The company has granted the initial purchasers of the notes a 30-day option to purchase an additional \$25 million principal amount of the notes. The placement of the notes is expected to close on November 21, 2001.

77. On December 19, 2001, the Individual Defendants caused Riverstone to issue a press release entitled, "Riverstone Networks Reports Record Third Quarter: Revenues Increase 124% Year Over Year to \$60.1 Million, Company Reports Pro Forma Profit of \$0.03 Per Share." The press release stated in part:

Riverstone Networks, Inc. today reported revenues of \$60.1 million for its fiscal third quarter 2002, which ended December 1, 2001, a 124 percent increase compared

1 with revenues of \$26.8 million for the same period last year and an 8.7 percent increase
2 compared with revenues of \$55.3 million for the prior quarter.

3 Pro forma net income for the quarter was \$3.6 million or \$0.03 per share,
4 compared with a pro forma net loss of \$7.1 million or \$0.08 per share for the third
5 quarter of fiscal 2001, and a pro forma net income of \$1.6 million or \$0.01 per share for
6 the prior quarter.

7 GAAP net income for the third quarter, which includes stock-based
8 compensation and amortization of goodwill, was \$2.2 million or \$0.02 per share. This
9 compares with a net loss of \$34.9 million or \$0.38 per share for the third quarter of
10 fiscal 2001. GAAP net income for the prior quarter was \$64,000, or breakeven on a per
11 share basis.

12 “We are pleased to deliver another record quarter of increasing revenues, profit
13 and market share,” said Romulus Pereira, Riverstone president and chief executive
14 officer. “Riverstone continues to set the standard for carrier products in the metro
15 market. Our solutions enable our customers to create and deliver profitable services,
16 lower costs, and maximize returns from their infrastructure.”

17 78. The true facts which were known (or consciously disregarded) by each of the defendants
18 but concealed from the public were as follows:

19 (a) That the Company’s financial results were materially false and misleading as
20 described below;

21 (b) That the Company’s purported ability to reach one million customers via its deal
22 with Hutchison was a pipe dream as Hutchison had less than 150,000 customers and its growth
23 rate was less than 7% per month;

24 (c) That the Company’s revenue recognition policy was regularly disregarded in
25 favor of the defendants’ desire to ship products and report revenues even though the customer
26 had little if any ability to pay;

27 (d) That a substantial percentage of Riverstone’s sales occurred in the last few days
28 of the fiscal quarter, which allowed Riverstone to miraculously “make its numbers” through
suspect transactions that should not have been recorded as revenue at that time;

(e) That much of Riverstone’s revenue reported during the quarter would have to be
reversed because customers routinely returned products during the next fiscal quarter. For
example, throughout the Relevant Period, Qwest, one of Riverstone’s largest customers,
repeatedly returned product during the following quarter. Curiously, when Riverstone

employees followed up with Qwest's end-customers to inquire into the reason for the return, the Qwest end-customers often did not even have a record of ever having received the product;

(f) That the claimed reason for the product return by "end-of-the-quarter" customers was often that the products were "defective." However, the returned products were later placed back into inventory. Many of the customers who returned products would often re-order the exact same products and return them again later. Although Riverstone's product return policy provided for a 90-day return period, Riverstone accepted product returns for products that had been purchased over 120 days earlier; and

(g) That many of the end-of-the-quarter transactions that allowed Riverstone to purportedly "make its numbers" were suspect deals that were put together by defendants Stanton or Pereira rather than sales made by Riverstone's sales representatives. The revenue from these end-of-the-quarter transactions should not have been recorded. Defendants knew that the end-of-the-quarter transactions were suspect because defendant Kern received bi-weekly pipeline reports from Riverstone's outside sales representatives. These bi-weekly pipeline reports contained the names of prospective customers that had a high potential of closing a deal with Riverstone. However, the suspect "end-of-the-quarter" deals put together by defendants Stanton and Pereira did not appear on these pipeline reports.

79. On December 20, 2001, Riverstone's common stock price closed at \$15.05. The price of Riverstone's stock rose until January 11, 2002, when it reached a Relevant-Period high of \$20.55 per share. Immediately, certain of the Insider Selling Defendants began selling their shares.

80. Between January 11, 2002 and February 1, 2002, each of the Insider Selling Defendants, based on their knowledge of this material, adverse, non-public information regarding the Company's statements, financial results, and condition, sold in California 326,800 shares of Riverstone common stock, collecting proceeds of \$5,985,341.90 as follows:

<u>Name</u>	<u>Dates</u>	<u># Shares</u>	<u>Prices</u>	<u>Proceeds</u>
Piyush Patel	1/11/2002	57,300	\$20.26	\$1,160,898.00
	2/01/2002	7,500	\$16.37	\$122,775.00

1		2/01/2002	49,800	\$16.37	\$815,226.00
2		Total:	<u>114,600</u>		<u>\$2,098,899.00</u>
3					
4	Suresh Gopalakrishnan	1/11/2002	15,000	\$20.26	\$303,900.00
5		2/01/2002	15,000	\$16.37	\$245,550.00
6		Total:	<u>30,000</u>		<u>\$549,450.00</u>
7					
8	Romulus Pereira	1/11/2002	6,200	\$20.26	\$125,612.00
9		1/11/2002	8,049	\$20.26	\$163,072.74
10		1/11/2002	30,951	\$20.26	\$627,067.26
11		2/01/2002	2,381	\$16.37	\$38,976.97
12		2/01/2002	6,200	\$16.37	\$101,494.00
13		2/01/2002	36,619	\$16.37	\$599,453.03
14		Total:	<u>90,400</u>		<u>\$1,655,675.90</u>
15					
16	Eric Jaeger	1/11/2002	15,000	\$20.26	\$303,900.00
17		2/1/2002	15,000	\$16.37	\$245,550.00
18		Total:	<u>30,000</u>		<u>\$549,450.00</u>
19	John Kern	1/11/2002	1,948	\$20.26	\$39,466.48
20		1/11/2002	10,952	\$20.26	\$221,887.52
21		2/01/2002	2,380	\$16.37	\$38,960.60
22		2/01/2002	<u>10,520</u>	<u>\$16.37</u>	<u>\$172,212.40</u>
23		Total:	<u>25,800</u>		<u>\$472,527.00</u>
24	Robert Stanton	1/11/2002	18,000	\$20.26	\$364,680.00
25		2/01/2001	<u>18,000</u>	<u>\$16.37</u>	<u>\$294,660.00</u>
26		Total:	<u>36,000</u>		<u>\$659,340.00</u>
27					
28		TOTAL:	<u><u>326,800</u></u>		<u><u>\$5,985,341.90</u></u>

1 81. On February 28, 2002, only twenty-seven days after the insider selling had been
2 completed, the Individual Defendants caused Riverstone to issue a press release entitled, "Riverstone
3 Networks Announces Preliminary Fourth Quarter Results." The press release stated in part:

4 Riverstone Networks, Inc., a leader in metropolitan area networking, today
5 announced that it expects revenues for the fourth quarter ending March 2, 2002 to be
6 approximately \$50 million to \$54 million. Based on these revenues, the Company
anticipates it will breakeven or have a slight loss on a pro forma basis. These pro forma
results exclude fourth quarter charges, as well as amortization of goodwill and stock
compensation expense.

7
8 The Company also announced that it would reduce its expenses, including
9 workforce reductions, resulting in an approximate 10 percent reduction in the
10 Company's overall cost structure in the first quarter of fiscal 2003, which ends June 1,
2002. The Company expects to take charges in the fourth quarter totaling
approximately \$26 million to \$30 million, consisting of asset impairments, write downs
in equity investments, charges related to discontinued products and costs associated with
workforce reductions.

11
12 Riverstone's revised expectations are a result of deteriorating market conditions,
13 primarily in the US and Europe, which have caused service providers and carriers to
delay infrastructure build outs. Despite the macro economic climate, carriers continue
to choose Riverstone for its industry leading metro-optimized products and solutions.

14 "We continue to focus on our financial metrics and remain committed to long-
15 term profitability," said Romulus Pereira, President and CEO of Riverstone Networks.
16 "We also remain committed to our carrier customers and to providing them with
network infrastructure that converts raw bandwidth into profitable services."

17 82. After this announcement, the price of Riverstone's common stock closed at \$3.82 per
18 share.

19 83. On March 26, 2002, the Individual Defendants caused Riverstone to issue a press release
20 entitled, "Riverstone Networks Reports Fourth Quarter and Fiscal Year End 2002 Results; Company
21 Reports Fiscal 2002 Revenues of \$210.8 million, a 114 Percent Increase Over Previous Year." The
22 press release stated in part:

23 Riverstone Networks, Inc., a pioneer in metropolitan area networking, today
reported results for its fourth quarter and fiscal year ended March 2, 2002.

24 Revenues for the fourth quarter of fiscal 2002 were \$51.3 million, compared
25 with revenues of \$35.1 million for the same period last year and \$60.1 million for the
26 third quarter of fiscal 2002. Pro forma net loss for the quarter was \$1.7 million or \$0.01
per share, compared with pro forma net loss of \$5.5 million or \$0.06 per share for the
fourth quarter of fiscal 2001, and pro forma net income of \$3.6 million, or \$0.03 per
share for the third quarter of fiscal 2002.

27 GAAP net loss for the fourth quarter, which includes a charge of \$1.1 million
28 relating to stock-based compensation and goodwill associated with acquisitions, a

1 restructuring charge of \$3.3 million, and a non-cash charge of \$22.1 million related to
 2 the impairment of investments in privately-held companies, was \$28.2 million, or \$0.23
 3 per share. This compares with a GAAP net loss of \$6.6 million or \$0.07 per share for
 the fourth quarter of fiscal 2001 and GAAP net income of \$2.2 million or \$0.02 per
 share for the third quarter of fiscal 2002.

4 Revenues for the year ended March 2, 2002 were \$210.8 million, a 114 percent
 5 increase compared with revenues of \$98.3 million for fiscal 2001. Pro forma net loss
 6 for fiscal 2002 was \$252,000, or breakeven on a per share basis, compared with pro
 forma net loss of \$32.8 million or \$0.35 per share for fiscal 2001.

7 GAAP net loss for the year, which includes a charge of \$5.0 million relating to
 8 stock-based compensation and goodwill associated with acquisitions, a restructuring
 9 charge of \$3.3 million, and **a non-cash charge of \$22.1 million related to the
 impairment of investments in privately-held companies**, was \$30.7 million, or \$0.27
 per share. This compares with a GAAP net loss of \$65.8 million or \$0.71 per share for
 fiscal 2001. [Bold emphasis added.]

10 84. On March 27, 2002, defendant Pereira was interviewed by CNBC. A portion of the
 11 published report of that interview follows:

12 Riverstone Networks, Inc. Chief Executive Officer Romulus Pereira said on
 13 financial news network CNBC that the maker of gear to direct Internet traffic expects to
 break even or post a small profit in the current quarter.

14 “We’re fairly well diversified and we’ve got new market segments like Canada
 15 and Latin America starting to open up,” Pereira said. **“There’s plenty of mid-tier
 business as well as good tier-one business in Asia to keep the revenue moving until
 the U.S. markets come back in force.”**

16 **Pereira said the Company has \$450 million in cash on hand.**

17 85. The above statements were materially false and misleading because the Individual
 18 Defendants actually knew that:

19 (a) The Company’s Asian business had materially deteriorated and had become so
 20 dire that many of the Company’s Asian clients could not even pay amounts owed to the
 21 Company;

22 (b) The Company had only a fraction of the claimed “\$450 million in cash”;

23 (c) The Company’s financial results were materially false and misleading as
 24 described below;

25 (d) That much of Riverstone’s revenue reported during the quarter would have to be
 26 reversed because customers routinely returned products during the next fiscal quarter. For
 27 example, throughout the Relevant Period, Qwest, one of Riverstone’s largest customers,
 28

1 repeatedly returned product during the following quarter. Curiously, when Riverstone
2 employees followed up with Qwest's end-customers to inquire into the reason for the return, the
3 Qwest end-customers often did not even have a record of ever having received the product;

4 (e) That the claimed reason for the product return by "end-of-the-quarter" customers
5 was often that the products were "defective." However, the returned products were later placed
6 back into inventory. Many of the customers who returned products would often re-order the
7 exact same products and return them again later. Although Riverstone's product return policy
8 provided for a 90-day return period, Riverstone accepted product returns for products that had
9 been purchased over 120 days earlier; and

10 (f) That many of Riverstone's end-of-the-quarter transactions were suspect deals
11 that were put together by defendants Stanton or Pereira rather than sales made by Riverstone's
12 sales representatives. The revenue from these end-of-the-quarter transactions should not have
13 been recorded. Defendants knew that the end-of-the-quarter transactions were suspect because
14 defendant Kern received bi-weekly pipeline reports from Riverstone's outside sales
15 representatives. These bi-weekly pipeline reports contained the names of prospective customers
16 that had a high potential of closing a deal with Riverstone. However, the suspect "end-of-the-
17 quarter" deals put together by defendants Stanton and Pereira did not appear on these pipeline
18 reports.

19 86. In fact, in May 2002, Pereira held an all-company meeting in which he announced that
20 all employees would be taking a mandatory 5% pay deduction in the form of a payroll deduction.
21 Pereira announced that this payroll deduction was necessary because business was very slow.

22 87. Moreover, in May 2002, Cox Communications returned at least \$3 million worth of
23 product out of a \$9 million order it placed with Riverstone earlier in 2002.

24 88. On June 5, 2002, the Individual Defendants caused Riverstone to issue a press release
25 entitled, "Riverstone Networks Announces Preliminary First Quarter Results." The press release stated
26 in part:

27 Riverstone Networks, Inc., a leader in metropolitan area networking, today
28 announced estimated financial results for the first quarter of fiscal 2002, which ended
June 1, 2002.

1 Reflecting continued cautious spending on the part of telecommunications
2 carriers, the Company expects revenue for the first quarter to be approximately \$30
3 million to \$31 million. Based on these revenues, the Company expects to report a pro
forma net loss for the quarter of approximately \$0.11 per share to \$0.13 per share,
excluding amortization of goodwill and stock compensation expense.

4 “Despite capital spending remaining conservative, we continue to see strong
5 initial deployments from carriers around the world, indicating that metro projects are a
6 priority,” said Romulus Pereira, president and chief executive officer of Riverstone
7 Networks. “Accordingly, our focus remains on delivering best-in-class products and
solutions. With a strong cash balance, we are well positioned to meet the next-
generation networking needs of carriers around the world.”

8 89. On June 19, 2002, the Individual Defendants caused Riverstone to issue a press release
9 entitled, “Riverstone Networks Reports First Quarter Fiscal 2003 Results; Results in Line With
10 Previously Announced Expectations; Revenues of \$30.1 Million and Pro Forma EPS of \$(0.12).” The
11 press release stated in part:

12 Metropolitan area networking pioneer Riverstone Networks Inc. today reported
first quarter results for the period ending June 1, 2002.

13 Revenues for the first quarter of fiscal 2003 were \$30.1 million, compared with
14 revenues of \$44.2 million for the same period last year and \$51.3 million for the fourth
15 quarter of fiscal 2002. Pro forma net loss for the quarter was \$15.3 million or \$0.12 per
16 share, compared with pro forma net loss of \$3.6 million or \$0.03 per share for the first
quarter of fiscal 2002, and pro forma net loss of \$1.7 million, or \$0.01 per share for the
fourth quarter of fiscal 2002.

17 GAAP net loss for the first quarter was \$15.9 million, or \$0.13 per share. This
18 compares with a GAAP net loss of \$4.7 million or \$0.04 per share for the first quarter of
fiscal 2002 and GAAP net loss of \$28.2 million or \$0.23 per share for the fourth quarter
of fiscal 2002.

19 “While telecommunications carrier spending remains cautious, their priorities
20 continue to reflect the shift from voice to data networks,” said Romulus Pereira,
21 president and chief executive officer of Riverstone Networks. “Riverstone’s product
portfolio and strong customer base position us well as carriers around the world prepare
to build the next generation service network.”

22 90. On August 22, 2002, the Individual Defendants caused Riverstone to issue a press
23 release entitled, “Riverstone Networks Announces Preliminary Second Quarter Results and
24 Restructures Operations.” The press release stated in part:

25 Riverstone Networks, Inc., today announced that it expects revenues for the
26 second quarter ending August 31, 2002 to be approximately \$10 million to \$15 million.
Based on these revenues, ***the Company anticipates a pro forma loss of approximately***
27 ***\$0.18 to \$0.24 per share*** and a GAAP loss of approximately \$0.23 to \$0.29 per share.
Pro forma results exclude second quarter charges of approximately \$5 million for
28 severance expenses and charges associated with excess facilities, as well as amortization
of stock compensation expense. [Bold emphasis added.]

1 To align its organization to pursue new market opportunities and accelerate its
 2 return to profitability, the Company is implementing a worldwide workforce reduction
 3 of approximately 30 percent of the Company's employee base. As a result of this
 reduction in workforce, the Company expects to realize cost savings of approximately
 \$7 million per quarter beginning in the third quarter of the current fiscal year.

4 The Company also announced today that it is expanding its focus on adjacent
 5 markets that require Riverstone's advanced switching and routing technologies. These
 6 opportunities, which include federal and cable, are markets where Riverstone's products
 and services have an established growth profile.

7 "While we remain committed long term to our service provider customers, we
 8 are seeing a more immediate opportunity for our products in markets beyond
 telecommunications services," said Romulus Pereira, president and CEO of Riverstone
 9 Networks. "We believe we remain well positioned for long term success with a strong
 cash balance, a broad set of market opportunities, and a compelling set of next
 generation products."

10 91. On September 18, 2002, the Individual Defendants caused Riverstone to issue a press
 11 release entitled, "Riverstone Networks Reports Second Quarter Fiscal 2003 Results." The press release
 12 stated in part:

13 Metropolitan area networking pioneer Riverstone Networks Inc. today reported
 14 second quarter results for the period ending August 31, 2002.

15 Revenues for the second quarter of fiscal 2003 were \$10.7 million, compared
 16 with revenues of \$55.3 million for the same period last year and \$30.1 million for the
 first quarter of fiscal 2003. **Pro forma net loss for the quarter was \$38.5 million or**
 17 **\$0.31 per share**, compared with pro forma net income of \$1.6 million or \$0.01 per share
 for the second quarter of fiscal 2002, and pro forma net loss of \$15.3 million, or \$0.12
 per share for the first quarter of fiscal 2003. [Bold emphasis added.]

18 GAAP net loss for the second quarter, which includes a charge of \$618,000
 19 relating to stock-based compensation, a restructuring charge of \$8.3 million, and **a non-**
cash charge of \$10.7 million related to the impairment of investments in privately-
 20 **held companies**, was \$58.0 million, or \$0.47 per share. This compares with GAAP net
 income of \$64,000 or breakeven on a per share basis for the second quarter of fiscal
 2002 and GAAP net loss of \$15.9 million or \$0.13 per share for the first quarter of fiscal
 2003. [Bold emphasis added.]

22 "Continued weakness and project delays in the telecommunications sector
 23 contributed to this quarter's revenue shortfall," said Romulus Pereira, president and
 chief executive officer of Riverstone Networks. "As a result, we have taken the
 24 necessary steps to better align our expenses with our revenues and we have placed a
 priority on minimizing cash burn, which decreased to \$24 million from \$35 million last
 25 quarter. With a strong cash balance of \$387 million, best-in-class products, and a well-
 established customer base, we believe we are well positioned to return to profitability
 26 when the market recovers."
 27
 28

1 92. On December 18, 2002, the Individual Defendants caused Riverstone to issue a press
2 release entitled, "Riverstone Networks Reports Third Quarter Fiscal 2003 Results; Revenues Increase
3 29 Percent Sequentially to \$13.8 Million." The press release stated in part:

4 Metropolitan area networking pioneer Riverstone Networks, Inc. today reported
5 third quarter results for the period ending November 30, 2002.

6 Revenues for the third quarter of fiscal 2003 were \$13.8 million, an increase of
7 29 percent over revenues of \$10.7 million in the prior quarter. Revenues for the third
8 quarter of fiscal 2002 were \$60.1 million.

9 GAAP net loss for the third quarter was \$27.8 million or \$0.23 per share. This
10 compares to second quarter fiscal 2003 GAAP net loss of \$58.0 million, or \$0.47 per
11 share and third quarter fiscal 2002 GAAP net income of \$2.2 million or \$0.02 per share.
12 Third quarter fiscal 2003 GAAP net loss includes a \$6.3 million gain, net of tax, on debt
13 retirement, an \$11.5 million gain from the settlement of a lawsuit, a bad debt reserve of
14 \$9.8 million, a \$580,000 stock-based compensation charge, and **impairment charges of**
15 **\$24.3 million related to investments in privately-held companies.** [Bold emphasis
16 added.]

17 "During the third quarter we made noticeable progress on our priorities to extend
18 our worldwide geographic reach and increase our penetration into both the
19 telecommunication and mission critical networking markets," said Romulus Pereira,
20 president and CEO of Riverstone Networks. "While the worldwide marketplace remains
21 soft, new customers such as the Pentagon and Telefonica de Espana give us confidence
22 in both our strategy and the resiliency of the market."

23 Riverstone also announced today that it has entered into an agreement to acquire
24 privately held Pipal Systems, a Santa Clara, Calif.-based development stage networking
25 company. Founded in 2001 by veterans of several leading networking companies,
26 including Nortel Networks, Shasta Networks, and Redback Networks, Pipal Systems is
27 developing a new generation of advanced Ethernet and MPLS technologies that are
28 expected to bring enhanced network functionality and service creation capabilities to
carrier, campus metro and other mission critical networks.

 The agreement was approved by the boards of directors of both companies and is
expected to close in the fourth quarter of fiscal 2003 pending the approval of Pipal's
shareholders and the satisfaction of customary closing conditions. Under the terms of
the deal, the consideration is comprised of 8 million shares of Riverstone common
stock, \$3.5 million in cash payable to Pipal shareholders, the assumption of debt totaling
approximately \$6.5 million, and approximately \$5.8 million in compensatory and bonus
arrangements tied to milestones for employees.

93. On April 25, 2003, Riverstone announced that the Individual Defendants' conduct had
caused the SEC to request information on Riverstone's accounting practices related to "certain financial
transactions." The SEC informed Riverstone that a formal investigation on the same topic could be
launched.

DERIVATIVE AND DEMAND FUTILITY ALLEGATIONS

94. Plaintiff brings this action derivatively in the right and for the benefit of Riverstone to redress injuries suffered, and to be suffered, by Riverstone as a direct result of the breaches of fiduciary duty, Sarbanes-Oxley, and other violations of common and statutory law. Riverstone is named as a nominal defendant solely in a derivative capacity. This is not a collusive action to confer jurisdiction on this Court that it would not otherwise have.

95. Plaintiff will adequately and fairly represent the interests of Riverstone in enforcing and prosecuting its rights.

96. Plaintiff is and was an owner of the stock of Riverstone during times relevant to the Individual Defendants' wrongful course of conduct alleged herein, and remains a shareholder of the Company.

97. The Board of Directors of Riverstone at the time of the filing of the original complaint consisted of the following seven individuals: Defendants Pereira, Patel, del Calvo, and Paisley, and recently appointed directors William Weyand, Sylvia Summers, and Richard Lowenthal. Plaintiff did not make any demand on that Board of Directors of Riverstone to institute this action because such a demand would have been a futile, wasteful, and useless act, particularly for the following reasons:

(a) Pereira is not independent or disinterested and could not have adequately considered a shareholder demand. Pereira, as the President and CEO, was an insider. Moreover, because of Pereira's Company stock ownership and executive positions with the Company, Riverstone's Proxy Statement for the 2002 Annual Shareholder Meeting admitted that he was not independent.

(b) Pereira orchestrated the end-of-quarter sham sales as described in this Complaint. Through his study of sales, quality, and RMA reports he had direct knowledge of the massive product returns. Additionally, he personally observed the renovations of office space to accommodate returned product and the use of office cubicle space to house these returns as well.

(c) Pereira also participated in Company meetings in which the massive product returns and bogus sales figures were discussed, and reviewed minutes from these meetings as well. Indeed, Pereira was especially concerned about the Company's major accounts (such as

1 Cox Communications, Global Crossing, Verizon, and Qwest), and often asked to review
2 Company reports specific to them.

3 (d) Pereria also had knowledge of the GAAP violations via his access to
4 Riverstone's Oracle and Remedy databases, and the Company's internal web site that reported
5 duplicative shipments and massive product returns.

6 (e) Pereira personally benefited from his misconduct and the wrongdoings alleged in
7 this Complaint. For the year ended March 2, 2002, Riverstone paid Pereira \$229,327 in salary
8 and granted him 13,468 options to purchase Riverstone stock. For the year ended March 2,
9 2002, Pereira also acquired 103,868 Riverstone shares on option exercises, immediately
10 realizing \$1,420,395. Additionally, during the Relevant Period, Pereira sold 103,868 shares of
11 Riverstone stock for proceeds of \$1,804,497. These insider sales were extremely suspicious
12 because they increased Pereira's annual income nearly ten-fold.

13 (f) Pereira authorized and signed off on the false and misleading reports filed with
14 the SEC on Forms 10-Q and 10-K for the fiscal years of 2002 and 2003. Furthermore, he
15 falsely certified the quarterly reports filed with the SEC on October 3, 2002, and January 14,
16 2003 pursuant to Sarbanes-Oxley.

17 (g) Patel is not independent or disinterested and could not have adequately
18 considered a shareholder demand. Indeed, the Company's Proxy Statement for the 2002 Annual
19 Shareholder Meeting admitted that he was not independent because of his service to Cabletron
20 as its Chairman of the Board, President and CEO from October 1998 to June 1999.

21 (h) Patel is also interested in the wrongs alleged in this Complaint, because he had
22 knowledge of the wrongdoing and personally benefited from it. As a member of the Board,
23 Patel attended at least nine Board meetings in 2002 and 2003 and four Audit Committee
24 meetings. As a result, Patel observed the Company's office renovations intended to
25 accommodate the enormous product returns, and he saw the returned product housed in office
26 cubicles. To that end, Patel had knowledge of and participated in the wrongdoing alleged in this
27 Complaint, and personally benefited from his misconduct. During the Relevant Period, Patel
28 participated in the issuance of false and/or misleading statements, including the preparation of

1 false and/or misleading press releases and SEC filings. During the Relevant Period, Patel sold
2 253,633 shares of Riverstone stock for proceeds of \$3,397,309.

3 (i) Patel also directly participated in the wrongdoing alleged in this Complaint by
4 approving and signing the false and misleading Annual Report filed on Form 10-K with the
5 SEC on May 31, 2002.

6 (i) Patel, del Calvo, and Paisley were members of the Company's Audit
7 Committee.

8 (ii) Pillsbury is and has been the primary outside corporate and securities
9 counsel for Riverstone. de Calvo, as a partner at Pillsbury, lacked independence to be a
10 member of the audit committee.³

11 (iii) Patel, del Calvo, and Paisley were present in the Company's offices on at
12 least nine occasions for Board meetings in 2002, and also attended at least four Audit
13 Committee meetings in that year. Thus, they each observed the office renovations
14 necessary to accommodate the massive product returns and storage of returned product
15 in office cubicles. Moreover, as members of the Audit Committee they each had
16 oversight responsibility over the Company's accounting and financial reporting
17 principles and policies and internal audit controls and procedures. To that end, they
18 each discussed with management, including its CEO, Pereira, and CFO, Stanton, and its
19 internal audit group the Company's quarterly and annual financial statements, and
20 internal and external audit controls. Furthermore, they each had knowledge of, through
21 their access to sales, quality and RMA reports of the sham end-of-quarter sales and
22 enormous product returns.

23
24
25 ³ In a April 25, 2003 Client Alert from Pillsbury entitled "Sarbanes-Oxley Act: Standards Relating to
26 Listed Company Audit Committees", de Clavo's firm states "For example, where a partner of a law
27 firm serves on an issuer's audit committee, that law firm would be unable to represent the issuer,
28 regardless of whether or not the partner on the audit committee is involved directly with the
representation of the issuer."

1 (iv) Patel, del Calvo, and Paisley also directly participated in the wrongful
2 actions alleged in this Complaint by approving and signing the false and misleading
3 Annual Report filed on Form 10-K with the SEC on May 31, 2002.

4 (v) Defendant Paisley, as the CFO of 3Com Corporation (“3Com”), was
5 sophisticated and knowledgeable about the proper procedures and standards for the
6 recognition of revenue. Specifically, defendant Paisley was well aware of the harm
7 done to a company by improper accounting, as he was a defendant in litigation against
8 3Com regarding that company’s improper deferral of revenue and improper recognition
9 of revenue, both actions taken in violation of GAAP. That litigation cost 3Com over
10 \$200 million to settle. Despite these defendants’ knowledge and duties, the Audit
11 Committee recommended to the Board of Directors that the Company’s audited
12 consolidated financial statements be included in its Annual Report on Form 10-K for the
13 fiscal year ended March 3, 2001, and be filed with the SEC. By such actions,
14 defendants Patel, del Calvo and Paisley breached their duties by causing or allowing the
15 improper financials described above.

16 (j) In Riverstone’s Form 8-K, filed with the SEC on or about August 26, 2003, the
17 Board of Directors stated that the above caption case had been filed and “***The Company intends***
18 ***to vigorously defend these proceedings.***” (Emphasis added). On August 26, 2003, the date this
19 Form 8-K was filed, defendants Pereira, Patel, del Calvo, Paisley, Weyand, Summers, and
20 Lowenthal were each members of the Riverstone Board of Directors. Their statement to
21 “vigorously defend” these proceedings is evidence of their antagonism toward them, and why a
22 shareholder demand would have been futile.

23 (k) On October 16, 2002, Weyand was appointed to the Board of Directors. Weyand
24 is not independent given he was appointed to the Board by those clearly not independent or
25 disinterested, and has not been elected by Riverstone’s shareholders.

26 (l) On October 21, 2002, Summers was appointed to the Board of Directors.
27 Summers is not independent given she was appointed to the Board by those clearly not
28 independent or disinterested, and has not been elected by Riverstone’s shareholders.

1 (m) On February 6, 2003, Lowenthal was appointed to the Board of Directors.
 2 Lowenthal is not independent given he was appointed to the Board by those clearly not
 3 independent or disinterested, and has not been elected by Riverstone's shareholders. Moreover,
 4 Lowenthal was appointed to the Board after he sold his company, Pipal Systems, Inc. to
 5 Riverstone in January 2003. For these reasons, he is not independent.

6 (n) The Board of Directors, because of their inter-related business and professional
 7 relationships, have developed debilitating conflicts of interest which have prevented the Board
 8 of Directors' members of the Company from taking the necessary and proper action on behalf of
 9 the Company as requested herein. In addition to the conflicts that existed as a result of their
 10 participation in the improper insider selling, as detailed herein *supra*, the majority of the Board
 11 of Directors, including the defendants listed below, were subject to the following prejudicial
 12 entanglements:

13 (i) ***Pereira and Patel Are Long-Time Business Associates:*** In September
 14 1996, defendants Pereira and Patel, along with Nilesh Shah, founded Yago. From
 15 September 1996 to March 1998, defendant Pereira served as CTO and Vice President of
 16 Engineering of Yago. From September 1996 to October 1998, defendant Patel served as
 17 the CEO of Yago. In March 1998, defendants Pereira and Patel agreed to sell Yago to
 18 Cabletron for \$213 million. At that time, defendants Pereira and Patel each owned
 19 1,600,000 shares of Yago, or 9%. As a result of their ownership of Yago, defendants
 20 Pereira and Patel each received \$19,170,000. Because of their long-standing and
 21 personally beneficial business and professional relationships, neither defendant Pereira
 22 nor defendant Patel would have taken the action requested by plaintiff herein against
 23 one another or the remainder of the Individual Defendants;

24 (ii) ***Pereira and Patel Have Further Long-Time Business Relationships:***
 25 From December 1998 to September 2000, defendant Pereira served as General Manager
 26 of Cabletron's service provider business. From September 1999 to February 2000,
 27 defendant Pereira also served as Chief Operating Officer at Cabletron. From October
 28 1998 to June 1999, defendant Patel served as Senior Vice President of Worldwide

Engineering at Cabletron. Since June 1999, defendant Patel served as the Chairman of the Board, President and CEO of Cabletron. Because of their long-standing and personally beneficial business and professional relationships, neither defendant Pereira nor defendant Patel would have taken the action requested by plaintiff herein against one another or the remainder of the Individual Defendants; and

(iii) ***Pereira, Patel, and del Calvo Are Long-Time Business Associates:***

Defendant del Calvo is a partner at Pillsbury, where he currently serves as co-chair of Pillsbury's Silicon Valley Business Group. Defendant del Calvo joined Pillsbury in 1982 and was made a partner in 1990. At Pillsbury, defendant del Calvo represented Yago in its merger with Cabletron in March 1998. Currently, Pillsbury is Riverstone's primary outside corporate and securities counsel. Defendant del Calvo has received and continues to receive substantial compensation due to his relationship with defendants Pereira and Patel. Even as recently as April 4, 2003, Pillsbury passed upon the validity of the \$126,525,000 in 3.75% convertible subordinated note offering and the common stock issuable upon conversion of the notes. Due to these longstanding and personally beneficial business relationships with defendants Pereira and Patel, defendant del Calvo lacks independence from these directors and any demand upon him was futile.

98. Moreover, despite the Individual Defendants having knowledge of the claims and causes of action raised by plaintiff, the Board of Directors have failed and refused to seek to recover for Riverstone for any of the wrongdoing alleged by plaintiff herein.

99. Plaintiff has not made any demand on shareholders of Riverstone to institute this action since such demand would be a futile and useless act for the following reasons:

(a) Riverstone is a publicly held company with approximately 130 million shares outstanding and thousands of shareholders;

(b) Making demand on such a number of shareholders would be impossible for plaintiff who has no way of finding out the names, addresses, or phone numbers of shareholders; and

(c) Making demand on all shareholders would force plaintiff to incur huge expenses, assuming all shareholders could be individually identified.

COUNT I

Against the Insider Selling Defendants for Violation of California Corporations Code Section 25402

100. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

101. At the time that defendants Pereira, Patel, Gopalakrishnan, Jaeger, Kern, and Stanton (“Insider Selling Defendants”) sold their Riverstone common stock as set forth herein, by reason of their high executive and/or directorship positions with Riverstone, the Insider Selling Defendants had access to highly material information regarding the Company, including the information set forth herein regarding the true adverse facts of Riverstone’s improper accounting and statements.

102. At the time of such sales, that information was not generally available to the public or the securities markets. Had such information been generally available, it would have significantly reduced the market price of Riverstone shares at that time.

103. The Insider Selling Defendants, and each of them, had actual knowledge of material, adverse non-public information and thus sold their Riverstone common stock in California in violation of California Corporations Code § 25402.

104. Pursuant to California Corporations Code § 25502.5, the Insider Selling Defendants, and each of them, are liable to Riverstone for damages in an amount up to three times the difference between the price at which Riverstone common stock was sold by the defendants, and each of them, and the market value which that Riverstone common stock would have had at the time of the sale if the information known to the defendants, and each of them, had been publicly disseminated prior to that time and a reasonable time had elapsed for the market to absorb the information.

COUNT II

Against the Insider Selling Defendants for Breach of Fiduciary Duties for Insider Selling and Misappropriation of Information

105. Plaintiff incorporates by reference and realleges each and every allegation set forth above, as though fully set forth herein.

Contribution And Indemnification

COUNT V

COUNT VI**Against Defendants Pereira And Stanton
For Breaches Of Fiduciary Duty And Trading On Confidential
Information For Personal Profit**

121. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

122. Pereira and Stanton occupied fiduciary positions with Riverstone that made them privy to confidential material inside information concerning the Company and its operations, including the wrongful conduct alleged herein, and the Company's potential exposure to liability and injury.

123. In spite of their duty to refrain from trading in the Company's stock based upon inside information, these defendants sold millions of dollars worth of their personal holdings in Riverstone securities.

124. As such, Pereira and Stanton are liable and must account to Riverstone for any and all profits they unlawfully derived from these stock sales.

COUNT VII**Against Defendants Pereira And Stanton
For Breaches Of Fiduciary Duty Arising Out Of The Payment
Of Incentive Based Compensation**

125. Plaintiff incorporates by reference and realleges each and every allegation contained above, as though fully set forth herein.

126. Pereira and Stanton received incentive based compensation based upon the financial performance of the Company which they knew was artificially inflated due to the reasons alleged herein. They each owed a fiduciary duty to the Company not to receive such incentive based compensation based upon their own wrongful conduct, and thus they proximately caused and are continuing to cause substantial damage to the Company.

127. As such, Pereira and Stanton are liable and must account to Riverstone for any and all incentive based compensation paid or to be paid to them unlawfully derived from their breaches of fiduciary duty.

PRAYER FOR RELIEF

WHEREFORE, plaintiff demands judgment as follows:

A. Against all of the Individual Defendants and in favor of the Company for the amount of damages sustained by the Company as a result of the Individual Defendants' wrongdoing as alleged in this Complaint;

B. Determining and awarding Riverstone treble damages pursuant to California Corporations Code § 25502.5(a) for the Insider Selling Defendants' violations of California Corporations Code § 25402;

C. Extraordinary equitable and/or injunctive relief as permitted by law, equity and state statutory provisions sued hereunder, including attaching, impounding, imposing a constructive trust on or otherwise restricting the proceeds of defendants' trading activities or their other assets so as to assure that plaintiff on behalf of Riverstone has an effective remedy;

D. Awarding to Riverstone restitution from the defendants, and each of them, and ordering disgorgement of all profits, benefits and other compensation obtained by the defendants;

E. Awarding to plaintiff the costs and disbursements of the action, including reasonable attorneys' fees, accountants' and experts' fees, costs, and expenses; and

F. Granting such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: November 6, 2003

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Attorneys for Plaintiff

VERIFICATION

I am the Plaintiff in this shareholder derivative action and I was a Riverstone shareholder during relevant times that the events alleged to have taken place in this Complaint occurred. Also, I continue to hold my shares. I believe the factual allegations in the Verified Amended Shareholder Derivative Complaint For Violation Of California Corporations Code, Breach Of Fiduciary Duty, Abuse Of Control, Gross Mismanagement, Waste Of Corporate Assets And Unjust Enrichment to be true based upon my own personal knowledge and my counsel's investigation. Having received a copy of this Complaint, having reviewed it with my Counsel, I hereby authorize its filing.

A handwritten signature in black ink, appearing to read "G. L. Smith", is written over a horizontal line.